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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,954	09/22/2000	David Russell Miller	32973	2277

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EXAMINER

SOTOMAYOR, JOHN

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 04/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/667,954

Applicant(s)

MILLER, DAVID RUSSELL

Examiner

John L Sotomayor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claim 17 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The applicant has set forth a user interface consisting of design elements to provide a view for the user taking a test. This claim simply points out a visual structure that may be presented on a computer screen to a student. No functional change occurs until the screen is used to manipulate test data. The claim presents a manipulation of abstract visual components with no concrete result and is therefore non-statutory.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 18 – 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant has set forth in these claims generic software methodology for generating and maintaining communication and state management between a client computer and an Internet or web server. These claims fail to point out the particular invention that the applicant is claiming by omitting a discussion of the contents of the cookie, the

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format of the cookie jar file, or what is distinctly different in the applicant's use of this technology.

4. Claims 24 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that they fail to point out what is included or excluded by the claim language. These claims are omnibus type claims.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Sonnenfeld (US Patent 6,112,049).

8. Regarding claim 1, Sonnenfeld discloses a computerized testing system implemented on a network, such as the Internet. This system includes a web server and database for communicating and storing testing units (Col 3, lines 12-20 and lines 48-52), a client computer

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in communication with the web server via the Internet for taking the examination (Col 3, lines 12-20) and a means for saving the current state of the examination at timed intervals (Col 2, lines 15-20) in a user unique file (Col 4, lines 2-12).

9. Regarding claim 2, Sonnenfeld discloses that each test unit is stored in a separate file for each individual test taker for security of the exam. These files are stored on the web server (Col 2, lines 42-46).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 3 - 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Sonnenfeld in view of Bowman-Amuah (US Patent 6,332,163).

12. Regarding claim 3, Sonnenfeld discloses a means of communication between the web server and the client computer consisting of a query sequence that may contain plain text references to objects for use in building and maintaining HTML documents across the link (Col 11, lines 24-28). This method of communication meets the definition of communication via “cookies” as set forth on page 8, line 30 of the applicant’s specification. Therefore, it would

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have been obvious to one of ordinary skill in the art at the time of invention to provide the state management for the test via “cookies”.

13. Regarding claim 4, Sonnenfeld discloses that communication between the server and the client computer system can consist of “cookies”, as defined in applicant’s specification (Col 11, lines 47-52), and that communication may be accomplished on an allowable timing, sequencing and repetition basis (Col 2, lines 15-19). Sonnenfeld does not specifically disclose what predefined interval is used for the timing of communications. However, Bowman-Amuah teaches the concept of timed backups for the recovery and restoration of information communicated in a networked testing system. Timed backups on predetermined intervals are a common and well-known method of data recovery and control in networked systems. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a means for updating cookies at a predefined interval and to transmit the updated cookies to the web server.

14. Regarding claims 5 and 6, Sonnenfeld discloses a means of transmitting files to and from the client computer from the network server (Col 11, lines 35-38) and storing the transmitted files, including associated state management information, on the web server (Col 4, lines 16-21). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to transmit and store testing files and their state information in the form of cookies, as previously defined, on the web server.

15. Regarding claims 7 and 8, Sonnenfeld discloses the communication of files, including cookies, between a server and a client computer (Col 11, lines 16-56). Sonnenfeld further discloses that, for security reasons, files communicated between the client and server are

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maintained in separate files, including associated state management information, and locked to each individual (Col 12, lines 2-9). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have stored files, including associated state management information as cookies, in unique files on the server.

16. Regarding claim 9, Sonnenfeld discloses a method of administering an Internet based test to a client with exam content located on a web server, logging in a client for security reasons, retrieving and displaying exam content from the web server (Col 12, lines 42-65), and that examination sessions may be saved automatically on an allowable timing, sequencing and repetition basis (Col 2, lines 15-19). Sonnenfeld does not specifically disclose what predefined interval is used for the timing of communications. However, Bowman-Amuah teaches the concept of timed backups for the recovery and restoration of information communicated in a networked testing system. Timed backups on predetermined intervals are a common and well-known method of data recovery and control in networked systems. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a means for updating cookies at a predefined interval and to transmit the updated cookies to the web server.

17. Regarding claim 10, Sonnenfeld discloses that files may be automatically saved on a specialized web server called a "query server" in a unique file on a per student basis (Col 11, lines 16-30).

18. Regarding claim 11, Sonnenfeld discloses an HTML document, which includes an HTTP header, containing information about the current state of the examination (Col 11, lines 46-52). Bowman-Amuah also teaches that this header may contain meta-data concerning attribute descriptors that define the elements of the data saved (Col 313, lines 20-23). This information

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establishes the current state of the examination. Sonnenfeld also discloses that files are saved on allowable timing bases (Col 2, line 18). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to automatically store state information at predefined time intervals concerning the state of the examination in a unique file on the web server.

19. Regarding claims 12 – 16, Sonnenfeld discloses a networked testing system that utilizes the Internet as a communication medium. This testing system contains the steps of interactively receiving test requests, responding to these requests with examination content, saving the examination content in a unique file on a student basis and providing file storage activities on an allowable timing basis (Col 11, lines 15 – 60). Sonnenfeld also discloses an HTML document, which includes an HTTP header, containing information about the current state of the examination (Col 11, lines 46-52), which is defined as a “cookie”. Bowman-Amuah teaches that the cookie may contain meta-data concerning attribute descriptors that define the elements of the data saved (Col 313, lines 20-23). This information establishes the current state of the examination. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide testing communication activities, including taking and responding to queries, sending and displaying exam content, and automatically storing cookies at predefined time intervals concerning the state of the examination in a unique file on the web server.

Conclusion

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Peterson et al (US Patent 6,052,512) for its discussion of networked database storage and retrieval of testing data.

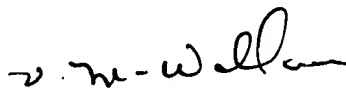
Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Sotomayor whose telephone number is 703-305-4558.

The examiner can normally be reached on 6:30-4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Jessica Harrison can be reached on 703-308-2217. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7768 for regular communications and 703-308-7768 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-4119.

jls
April 8, 2002


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